

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

UNITED STATES OF AMERICA, §
Plaintiff, §
§
v. §
§ CIVIL ACTION NO. 1:08-cv-00378
0.87 ACRES OF LAND, MORE OR LESS, §
SITUATED IN CAMERON COUNTY, §
TEXAS, MINERVA DIOS DADO, *et al.*, §
Defendants. §

MOTION TO ADD “SAN JUANITA VILLARREAL” AS PARTY DEFENDANT

Plaintiff, the United States of America (hereafter “United States”), through the undersigned Assistant United States Attorney, moves under Federal Rule of Civil Procedure 71.1(c)(3) to add SAN JUANITA VILLARREAL as party defendant to the instant civil action. In support, the United States shows as follows:

I. BACKGROUND

1. In the present condemnation action, the United States acquired tracts RGV-FTB-1020 and RGV-FTB-1020-1 (hereafter “Border Fence Tracts”) in furtherance of the border fence infrastructure project.¹

2. Rafaela G. Trevino, one of three record title owners of the Border Fence Tracts and parent tract (hereafter “Subject Property”) thereof, died intestate April 26, 1996.² At the time of her death, Rafaela G. Trevino was survived by her son, Aristeo Trevino.³

3. The United States identified “Aristeo Trevino” (hereafter “Defendant ARISTEO TREVINO”) as having an interest in the Border Fence Tracts.⁴ In compliance with Federal Rule

¹ See Docket Nos. 22-1 at 7; 23-1 at 7.

² Ex. A at 2 & 6, ¶ 10; Ex. B.

³ *Id.* at 4, ¶ e.

⁴ Docket Nos. 22-1 at 15; 23-1 at 17.

of Civil Procedure 71.1(d)(3)(B), the United States served Defendant ARISTEO TREVINO by publication in June 2017 after unsuccessful attempts to locate or personally serve him.⁵ Since then, the United States has discovered the following information about Defendant ARISTEO TREVINO:

4. Defendant ARISTEO TREVINO was born to Isidoro Trevino and Rafaela G. Trevino in 1926.⁶ Defendant ARISTEO TREVINO never married, but out of a previous romantic relationship, had a daughter born in 1967: SAN JUANITA VILLARREAL (aka San Juanita Trevino).⁷ Defendant ARISTEO TREVINO had no other children, nor raised other children as his own.⁸

5. Defendant ARISTEO TREVINO died intestate May 21, 2015, after the United States acquired the Border Fence Tracts.⁹ Defendant ARISTEO TREVINO was survived by his daughter, SAN JUANITA VILLARREAL (hereafter “INTERESTED PARTY”).

II. REQUEST TO ADD INTERESTED PARTY AS PARTY DEFENDANT

6. The INTERESTED PARTY has or claims to have an interest in the Border Fence Tracts because (1) her father, Defendant ARISTEO TREVINO had an interest in the Border Fence Tracts at the time of takings; (2) Defendant ARISTEO TREVINO died intestate May 21, 2015; and as a result, (3) the INTERESTED PARTY inherited his interest in the Border Fence Tracts.¹⁰

7. Under Federal Rule of Civil Procedure 71.1(c)(3), “...before any hearing on compensation, the plaintiff must add as defendants all those person who have or claim an interest and whose names have become known or can be found by a reasonable diligent search of the

⁵ See Docket No. 63-2.

⁶ Ex. A at 4, ¶ e; Ex. C.

⁷ Ex. D at 1, ¶ 4, and attached Birth Cert.

⁸ *Id.*, ¶ 5; Ex. C.

⁹ Ex. C; Ex. D at 2, ¶ 6.

¹⁰ See Tex. Estates Code § 201.001(a), (b) (“If a person who dies intestate does not leave a spouse...[t]he person’s estate descends and passes to the person’s children and the children’s descendants.”).

records..." Fed. R. Civ. P. 71.1(c)(3). Accordingly, the United States respectfully requests the Court adds the INTERESTED PARTY as party defendant to the instant civil action.

III. REQUEST FOR INTERESTED PARTY TO SUBSTITUTE IN THE PLACE OF DEFENDANT ARISTEO TREVINO

8. Assuming the INTERESTED PARTY is added as party defendant under Rule 71.1(c)(3), the United States further requests the Court substitute the INTERESTED PARTY in the place of Defendant ARISTEO TREVINO.

9. Federal Rule of Civil Procedure Rule 71.1(g) provides that "[i]f a defendant dies, becomes incompetent, or transfers an interest after being joined, the court may, on motion and notice of hearing, order that the proper party be substituted." Fed. R. Civ. P. 71.1(g). At the time of Defendant ARISTEO TREVINO's death, the INTERESTED PARTY was his sole heir. Accordingly, the United States respectfully requests the Court order that the INTERESTED PARTY is a proper party to substitute in the place of Defendant ARISTEO TREVINO.

PRAYER

The United States prays the Court grants the foregoing motion and pursuant to Federal Rule of Civil Procedure 71.1(c)(3), adds SAN JUANITA VILLARREAL as party defendant. Assuming the Court grants the foregoing motion, the United States further prays the Court substitute SAN JUANITA VILLARREAL in the place of Defendant ARISTEO TREVINO.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I hereby certify that on May 24, 2019, I met and conferred with SAN JUANITA VILLARREAL, and she is unopposed and joins this motion.

s/Baltazar Salazar
Baltazar Salazar
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that, on May 28, 2019, I mailed a true and correct copy of the foregoing document via regular mail to all interested parties for whom the United States has contact information.

s/Baltazar Salazar
Baltazar Salazar
Assistant United States Attorney